United Nations S/2012/467

Security Council

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Letter dated 15 June 2012 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Zambia submitted pursuant to resolution 1624 (2005) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) H. S. **Puri**
Chair
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 1 June 2012 from the Permanent Representative of Zambia to the United Nations addressed to the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to refer to the letter dated 27 May 2011 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism.

In that regard, please find attached the submission from the Government of the Republic of Zambia concerning the implementation of Security Council resolution 1624 (2005) (see enclosure).

(*Signed*) Mwaba **Kasese-Bota**
Ambassador
Permanent Representative

Enclosure

Implementation of resolution 1963 (2010)

1. Question

How does your Government assess the evolution of risks and threats in your State associated with the issue of incitement to commit acts of terrorism?

Answer

The Government does not yet have an established mechanism for assessing the evolution of risks and threats in the State associated with the issue of incitement to commit acts of terrorism, despite such conduct being criminalized under the Anti-Terrorism Act No. 21 of 2007.

2. Question

Does your Government assess whether there are any particular difficulties involved in implementing resolution 1624 (2005) and, if so, how might they be effectively addressed?

Answer

The Government considers that there are some practical challenges in addressing resolution 1624 (2005) that arise as a result of the inadequacies of the legislative framework relating to the prevention and suppression of terrorism.

However, the Government is determined to address those deficiencies through the review of the various pieces of legislation that are relevant to the prevention and suppression of terrorism. Furthermore, the Government has initiated a constitutional review process that will further enhance the legislative framework of the country by expressly prohibiting incitement to violence and other conduct, including terrorism.

Implementation of resolution 1624 (2005)

Paragraph 1

Paragraph 1.1

1. Question

What measures does your country have in place to prohibit by law and prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Answer

Section 21 of the Penal Code of Zambia provides for parties to offences. The section provides that:

> 21. (1) When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say:

(a) Every person who actually does the act or makes the omission which constitutes the offence;

(b) Every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;

(c) Every person who aids or abets another person in committing the offence;

(d) Any person who counsels or procures any other person to commit the offence.

(2) In the case of paragraph (d) of subsection (1), such person may be charged either with committing the offence or with counselling or procuring its commission. A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence. Any person who procures another to do or omit to do any act of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted an offence on his part, is guilty of an offence of the same kind and is liable to the same punishment, as if he had himself done the act or made the omission; and he may be charged with doing the act or making the omission.

Sections 10 and 11 of the Anti-Terrorism Act No. 21 of 2007 provides as follows:

10. (1) A person who incites another person to commit an act of terrorism commits an offence and is liable, upon conviction, to imprisonment for life.

(2) For the purposes of subsection (l), it is immaterial whether or not the person incited is in Zambia at the time of the incitement.

11. A person who aids, abets, counsels, procures, incites or solicits the commission of a terrorist act, commits an offence and is liable upon conviction, to imprisonment for life.

Paragraph 1.2

2. Question

What measures does your country take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Answer

Section 3 of the Anti-Terrorism Act No. 21 of 2007 extends the jurisdiction of the High Court in relation to terrorism so as to ensure that a person cannot escape justice once in Zambia. The section provides as follows:

3. (1) Subject to the other provisions of this Act, the High Court has jurisdiction to try any offences under this Act.

(2) Any person who commits an offence outside Zambia is deemed to have committed that offence in Zambia if:

(a) That person is a Zambian citizen;

(b) That person is not a Zambian citizen but is ordinarily resident in Zambia;

(c) That person, after the commission of the offence, is present in Zambia;

(d) That person has committed the offence against a Zambian citizen or against a person who is ordinarily resident in Zambia.

Section 45 of the Anti-Terrorism Act provides that:

45. (l) Where Zambia is a party to a counter-terrorism convention and there is in force an extradition agreement between the Government of Zambia and another State which is a party to that convention, the extradition agreement shall be deemed, for the purposes of the Extradition Act to include provision for extradition in respect of offences falling within the scope of that convention.

(2) Where Zambia is a party to a counter-terrorism convention and there is no extradition agreement in force between the Government of Zambia and another State which is a party to that convention, the Minister responsible for foreign affairs may, by order published in the Gazette, deem the counter-terrorism convention, for the purposes of the Extradition Act, to be an extradition agreement between the Government of Zambia and that State, providing for extradition in respect of offences falling within the scope of that convention.

(3) Where a citizen of Zambia has been arrested in another country under a law of that country relating to terrorism, the Attorney-General shall employ all due diligence to ascertain the circumstances of the case and, if necessary, take such action as the circumstances of the case may require.

Paragraph 2

Paragraph 2.1

3. **Question**

How does your country cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent possible, be enhancing terrorist screening and passenger security procedures?

Answer

Section 37 of the Act provides that:

37. (l) The Third Schedule shall have effect to confer powers to examine persons arriving in or leaving Zambia and for related purposes.

(2) The powers conferred by the Third Schedule shall be exercised notwithstanding any right conferred by the Immigration and Deportation Act.

The Third Schedule provides for terrorism border control measures as is provided in the appendix attached to the present letter.*

Part VII of the Anti-Terrorism Act No. 21 of 2007 provides for mutual assistance and extradition in matters related to terrorism. Section 41 of the Anti-Terrorism Act further provides that:

> 41. (l) The Attorney-General may, at the request of a competent authority of a foreign State, disclose to that authority any information in the Attorney-General's possession relating to any of the following:
>
> (a) The actions or movements of persons suspected of involvement in acts of terrorism;
>
> (b) The use of forged or falsified travel papers by persons involved in acts of terrorism;
>
> (c) Traffic in weapons and sensitive materials by persons suspected of involvement in acts of terrorism;
>
> (d) The use of communications technology by persons suspected of involvement in acts of terrorism;
>
> (e) The commission of offences by any person against this Act;
>
> if the disclosure is not prohibited by any provision of law and will not be prejudicial to national security or to public safety.

Zambia is a party to several bilateral agreements on mutual legal assistance and extradition around the region.

Zambia has joined permanent commissions with neighbouring St ıtes and deals with matters of security and border control generally and especially in response to various new and upcoming threats.

Zambia is in the process of developing a new national identity card which is electronic and machine-readable.

Paragraph 3

Paragraph 3.1

4. **Question**

What international efforts is your country participating in or considering participating in/initiating, in order to enhance dialogue and broaden understanding among civilizations, in an effort to target the indiscriminate targeting of different religions and cultures?

Answer

Zambia is a State Member of the United Nations and various United Nations agencies, such as the United Nations Educational, Scientific and Cultural Organization.

* The appendix is on file with the Secretariat and is available for consultation.

Paragraph 3.2

5. Question

What steps is your country taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

Answer

Zambia enacted the Anti-Terrorism Act No. 21 of 2007. Section 10 of the Act (see above) prohibits incitement to commit terrorist acts.

Clause 36 of the first draft constitution of the Republic of Zambia provides that:

36. (1) A person has the right to freedom of expression which includes:

(a) Freedom to hold an opinion;

(b) Freedom to receive or impart information or ideas;

(c) Freedom of artistic creativity;

(d) Academic freedom;

(e) Freedom of academic research.

(2) Clause (1) does not extend to:

(a) Propaganda for war;

(b) Incitement to violence;

(c) Advocacy of hatred that:

(i) Vilifies or disparages others or incites harm;

(ii) Is based on any prohibited ground of discrimination specified in this constitution;

(d) Any other unlawful purpose.

(3) In the exercise of the right to freedom of expression, a person shall respect the rights and reputations of others.

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Letter dated 20 June 2012 from the Secretary-General addressed to the President of the Security Council

In accordance with the request of the Security Council in paragraph 21 of its resolution 2036 (2012), concerning the implementation of the mandate of the African Union Mission in Somalia, I have the honour to transmit a report, dated 1 June 2012 (see annex), which I received from Mr. Jean Ping, Chairperson of the African Union Commission.

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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Annex

Letter dated 1 June 2012 from the Chairperson of the African Union Commission addressed to the Secretary-General

Pursuant to paragraph 21 of Security Council resolution 2036 (2012), in which the African Union was requested to keep the Council regularly informed on the implementation of the mandate of the African Union Mission in Somalia (AMISOM), I am pleased to forward herewith the second African Union Commission progress report on AMISOM (see enclosure).

In addition to the political process, the report covers issues relating to the deployment of AMISOM in the different sectors, the increase in the strength of its force and its command and control structure.

I would be most grateful if you could kindly forward the report to the Security Council members, for their information and action as may be required. The Commission stands ready to provide any additional information that may be necessary.

I would like once again, to reiterate the African Union's appreciation to the Security Council and to yourself for the invaluable support being rendered to AMISOM and the commitment of the United Nations to the promotion of lasting peace, security and reconciliation in Somalia.

(*Signed*) Jean **Ping**

Enclosure

Report of the Chairperson of the African Union Commission on the implementation of the mandate of the African Union Mission in Somalia pursuant to paragraph 21 of Security Council resolution 2036 (2012)

I. Introduction

1. The present report is submitted pursuant to paragraph 21 of Security Council resolution 2036 (2012) of 22 February 2012, in which the African Union was requested to keep the Council regularly informed, through the Secretary-General, on the implementation of the mandate of the African Union Mission in Somalia (AMISOM), through the provision of regular reports. The report covers political and security developments and aspects relating to the deployment and operations of AMISOM.

II. Political situation

2. During the period under review, progress continued to be made towards the implementation of the road map to end the transition. The six signatories of the road map, namely the transitional federal institutions, the regional administrations of Puntland and Galmudug, and Ahlu Sunna wal Jama'a, have endeavoured to strengthen the momentum generated by the National Consultative Constitutional Conferences, held from 21 to 23 December 2011 and 15 to 17 February 2012, in Garowe, Puntland.

3. The six signatories of the road map, namely the President of the Transitional Federal Government, Sharif Sheikh Ahmed, the President of Puntland, Abdirahman Farole, the Prime Minister of the Transitional Federal Government, Abdiweli Mohamed Ali, the Speaker of the Transitional Federal Parliament, Sharif Hassan Sheikh Aden, the Acting President of Galmudug, Abdisamed Nuur Guled and Ahlu Sunna wal Jama'a representative Sheikh Mohamed Yusuf, held another meeting in Galkayo, Somalia, on 27 March 2012. On that occasion, they agreed to, inter alia, reduce the size of the National Constituent Assembly from 1,000 to 825 members, with women constituting at least 30 per cent of the total membership. It was also decided that the members of the National Constitutional Assembly would be selected by 135 elders based on the 4.5 formula, assisted by a selection committee of non-voting members, as well as representatives of the six signatories.

4. A significant achievement during the reporting period was the completion by the Somali stakeholders of the Constitution drafting process. On 20 April 2012, the Prime Minister of the Transitional Federal Government received the final draft Constitution from the Independent Federal Constitution Commission and the Committee of Experts, in accordance with the stipulations of the Transitional Federal Charter, the road map timelines and the Garowe Principles.

5. In April 2012, the Somali signatories selected 135 elders, who will choose the 825 members of the National Constituent Assembly and select the new Parliament. On 5 May 2012, the National Constituent Assembly conference was convened in Mogadishu, bringing together 70 per cent of the 135 elders, to decide the selection

of the Assembly that will adopt the new Constitution and the new Parliament. The conference was attended by the President of the Transitional Federal Government, the Prime Minister, the Speaker of the Parliament and other key Somali stakeholders.

6. However, a number of political and technical challenges arose, which could undermine the credibility of the entire exercise. The process of selecting the elders has been extremely controversial and the draft Constitution is yet to be published for debate, leading to speculations among Somalis about its content. Some have described the draft Constitution as being anti-Islamic and promoting the Balkanization of Somalia by partitioning the country into three territories, namely Somaliland, Puntland and South Central.

7. It was in this context that the principal signatories of the road map met in Addis Ababa on 21 and 23 May 2012. On that occasion, they agreed that the elders' meeting in Mogadishu would select the delegates for the National Constituent Assembly no later than 20 June 2012 and that the National Constituent Assembly would convene on 2 July 2012 to adopt the interim Somali Constitution by 10 July. The new Somali Parliament will be selected by 15 July. The new Parliament, composed of 225 Members, will then elect the Speaker and the Deputy Speakers, on 4 August, and the President, on 20 August. In the selection process, the elders will be assisted by a Technical Selection Committee which will ensure that the nominees meet the criteria set out at the Garowe Conferences. Other key decisions included the expansion of the Technical Selection Committee for the National Constituent Assembly and the new Parliament, which will now be broadened to represent the clans and to include international observers. It was further decided that the Technical Selection Committee, which worked for three days to harmonize and incorporate the recommendations of the signatories into the draft interim Constitution, would soon convene to present the amended document to the National Constituent Assembly, in accordance with the new timelines.

8. The adoption of the draft Constitution and the election of the new Parliament, if achieved as planned, will facilitate the realization of other critical road map tasks: the ratification of the National Security and Stabilization Plan, the reform of the National Reconciliation Commission and the holding of presidential elections. Already, 3 presidential hopefuls have arrived in the country, adding to about 14 others who have already declared their intention to run in the August 2012 elections.

III. Security situation

9. During the reporting period, the security situation in the capital, Mogadishu, significantly improved, although Al-Shabaab elements continue to infiltrate the city and to carry out assassinations and suicide attacks. It is worth mentioning the suicide attack at Villa Somalia on 14 March and the 4 April attack during the first anniversary of the reopening of the Somali National Theatre, which killed 11 people, including the heads of Somalia's Football and Olympic Federations.

10. In sector 1 (Lower and Middle Shebelle, including Mogadishu), there were major gains. On 24 May, the Transitional Federal Government and AMISOM forces took control of the strategic town of Afgoye (Lower Shabelle) and secured the Afgoye corridor, which hosts up to 400,000 internally displaced persons. They are

now gradually pushing towards Balad (Middle Shabelle). However, there is growing concern about the increasing subversive activities of some former warlords and other individuals who are secretly undermining security in Mogadishu. Their actions include incitement of clan rivalries and influencing soldiers and junior officers to disrespect the hierarchy of the National Security Forces. Furthermore, as internally displaced persons and refugees continue to return in large numbers to their places of origin, several disputes over property and land have been reported.

11. In sector 2 (Lower and Middle Juba), the Transitional Federal Government, backed by the Kenyan contingent, established three subsectors: northern, central and southern. In the northern subsector, the towns of Damasa, Eleweny, Elade, Burahache and Fafadun have been liberated. In the central subsector, the towns of Diff, Dobley, Tabda, Hosingow and Belis Cogani are now in the hands of the Transitional Federal Government. On 30 May, the city of Afmadow fell under the control of the Transitional Federal Government forces and the Kenya Defence Forces. In the southern subsector, the Transitional Federal Government and AMISOM are further consolidating their control of Kolbio, Badhadhe, Burgabo and Ras Kamboni, which were the first to fall following the offensive launched in October 2011 by the Transitional Federal Government forces and the Kenya Defence Forces. The military offensive against the insurgents is advancing well in that subsector. The only towns that remain in the hands of Al-Shabaab are Kismayo, Jamaa, Bu'aale and Jilib.

12. In Sector 3, there were significant advances by the Transitional Federal Government and the Ethiopian National Defence Forces. Almost all of Gedo, Bay and Bakool have been liberated, with the exception of the Dinsor district, in Bay, and Tayeeglow district and some parts of Wajid, in the Bakool region.

13. Significant gains also continue to be recorded in sector 4, where the entire region of Hiraan has been recovered by the Transitional Federal Government and the Ethiopian National Defence Forces. Only the towns of Bulla Barde, Jalalqsi and Eel Dheere remain in the hands of the insurgents.

14. Although significantly weakened, Al-Shabaab still has the ability to strike and to receive funds and ammunition from the areas it controls, the diaspora and foreign networks. The group is now withdrawing from major cities and going underground by melting into clans or establishing new hideouts. In recent months, under pressure in south-central Somalia, Al-Shabaab has attempted to establish new bases in the northern Golis Mountains, an ideal hideout with its caves, forested areas and access to the coast. Currently, the estimated number of Al-Shabaab elements in the Golis Mountains is between 300 and 400, but that number could grow owing to infiltration from south-central Somalia and access by coast from Yemen. This includes Somalis radicalized in Yemen who are disguised as returnees to Puntland.

IV. Deployment of the African Union Mission in Somalia and the United Nations Support Office for the African Union Mission in Somalia support

15. While some slight delays have been observed in the implementation of AMISOM operational benchmarks, significant progress has been achieved in establishing AMISOM presence in other sectors outside Mogadishu. On 6 April,

100 Ugandan and Burundian forces deployed to Baidoa, as the advance team of 2,500 AMISOM troops that will take over from the Ethiopian National Defence Forces. On 12 April, approximately 1,500 Ugandan troops were deployed to Mogadishu, awaiting their deployment to sector 3. On 2 June, 1,000 additional Burundian troops were deployed from Mogadishu and will proceed to Baidoa. This will bring the force level to 16,660.

16. The United Nations Support Office for the African Union Mission in Somalia (UNSOA) has commenced pre-positioning essential equipment for sector 3 by road via Kenya and Ethiopia. The first in a series of convoys transporting major equipment, rations, tents and general supplies arrived at the Ethiopian border town of Doolow in mid-May and has since proceeded to Baidoa. UNSOA has also secured additional commercial cargo aircraft to increase its capability to deliver supplies by air into Baidoa and Beletweyne. These aircraft have already delivered water purification and air traffic control equipment, tents, fuel and other essential supply items to the advance team in Baidoa. The immediate priority for UNSOA in Baidoa includes the establishment of sector headquarters and a hospital and the installation of a communications system. UNSOA is consolidating the necessary medical equipment, drugs and consumables, so that the planned medical facility can be established quickly. Logistical support arrangements for sectors 3 and 4 are being formalized through a letter of assist between the United Nations and the Government of Ethiopia to provide security, engineering and transportation support in the two sectors.

17. The deployment of the contingent from Djibouti to sector 4 (Beletweyne) is under way; a platoon-size advance element (35 military personnel) was deployed on 31 May. The deployment of the main body of the contingent is expected to be completed by mid-June, which will bring the total force level to 17,530. The final predeployment visit and the negotiations on the memorandum of understanding will be conducted in the first half of June. At the request of the African Union, UNSOA redeployed equipment for the Djibouti contingent from Mogadishu, on 19 April, in preparation for eventual road transportation from Djibouti to Beletweyne, through Ethiopia, once the contingent is ready to deploy. UNSOA has also pre-positioned field defence stores, minor engineering equipment and generators for the deployment to Beletweyne.

18. A joint AMISOM-UNSOA contractor team conducted an inspection of the personnel and equipment deployed by Kenya, in sector 2, from 23 to 29 May. The negotiations of the memorandum of understanding between the African Union and the Government of Kenya were finalized in the same period. The memorandum of understanding will be signed on 2 June.

19. The African Union and UNSOA, in consultation with the troop-contributing countries, have developed letters of assist regarding the deployment of air assets. The letters are awaiting signature by the Governments of Uganda and Kenya. The AMISOM Strategic Concept had recommended a total of 14 rotary and fixed-wing aircraft to support AMISOM operations. In its resol tion 2036 (2012), however, the Security Council authorized an aviation component of up to 12 helicopters comprising 9 utility helicopters and 3 attack helicopters. It should be noted that the numbers authorized for attack helicopters will impose limitations on concurrent air operations, as AMISOM requires at the minimum a set of three attack helicopters (6 in total) in sectors 1 and 2 to provide air support. In view of this operational

imperative, a proposal was made to the United Nations to consider reconfiguring the authorized numbers so that AMISOM would be able to deploy six attack and six utility helicopters. In the meantime, a letter of intent will be written to Uganda and Kenya to immediately deploy two utility helicopters each, to support ongoing operations, particularly for causality evacuation in sector 1, in the Afgoye corridor, and in sector 2.

20. There have been no new developments regarding the establishment of a Guard Force, since my earlier report. Pending the establishment of the Guard Force, the AMISOM Force Commander will continue to provide limited guard duties within existing resources and capability.

21. In an effort to further enhance the delivery of the United Nations support package, AMISOM and UNSOA held a lessons learned workshop in Nairobi, on 30 April and 1 May 2012, to review the first three years of the United Nations logistical support package to AMISOM and to provide concrete recommendations regarding priority actions to be undertaken in the expanded AMISOM operations. In addition to AMISOM and UNSOA, participants included representatives of the United Nations Office to the African Union, the United Nations Political Office for Somalia (UNPOS), the Eastern Africa Standby Force Coordination Mechanism and key partners.

22. My Special Representative continues to engage with UNSOA on resource requirements for the expanded AMISOM force, and how these can best be met. It is imperative that AMISOM operations be adequately resourced in order to ensure the effectiveness of the force. The African Union is highly appreciative of the continued support from bilateral and multilateral donors.

23. Lastly, AMISOM continues to work in cooperation with UNSOA and the African Union/United Nations Information Support Team on the implementation of its strategic communication strategy. Public information activities continue to increase public support for AMISOM.

V. Command and control

24. The Strategic Concept provides for the establishment of an effective command and control architecture at the strategic and operational levels. At the strategic level, there are two advisory structures assisting the Commission: (a) the Joint Coordination Mechanism, comprising the Ministers of Defence of the troop-contributing countries and other interested countries, which held its inaugural meeting in Addis Ababa, on 12 April; and (b) the Military Operations Coordination Committee, which is composed of the Chiefs of Defence staff of the troop-contributing countries and other interested countries and held its inaugural meeting in Addis Ababa on 9 March. The Military Operations Coordination Committee has since convened twice. Both the Joint Coordination Mechanism and the Military Operations Coordination Committee meet under the chairmanship of the Commissioner for Peace and Security.

25. At the operational level, the command and control architecture calls for the establishment of an expanded and balanced Mission and force headquarters to facilitate the management of the Mission and the execution of its mandate. The structure of the force headquarters has since been revised in line with the above

considerations. Following the recommendations of the Joint Coordination Mechanism and the Military Operations Coordination Committee and extensive consultations with the AMISOM troop-contributing countries, I approved the command and control architecture for the expanded AMISOM operations, as well as the allocation of posts for the force headquarters. In the light of this, the new Force Commander, Lieutenant General Andrew Gutti, from Uganda, took over the command of the AMISOM military component, on 2 May, from Major General Fred Mugisha.

26. With regard to the recruitment for the remainder of the force headquarters staff, the recruitment process will be in line with the Guidelines for the recruitment of military staff officers for the AMISOM force headquarters as approved by the combined meeting of the Joint Coordination Mechanism and the Military Operations Coordination Committee on 12 April. The posts were allocated based on troop contributions and agreed principles following consultations with the AMISOM troop-contributing countries and other interested countries. Other African Union member States have also been allocated posts based on relevant skills and experience in peace support operations. The Commission is in the process of conducting interviews for the key appointments and a rotation plan has been approved for the staff officers, who will be deployed in three waves from mid-June to end-July. The posts of the sector commanders have also been approved based on consultations with the troop-contributing countries.

VI. Protection of civilians

27. The protection of the civilian population in Somalia remains of great concern to the African Union and AMISOM in particular. While the stabilization of the security situation in Mogadishu has contributed greatly to the protection of the civilian population, new threats, including the increasing use of improvised explosive devices by Al-Shabaab, and the deliberate targeting of civilians presumed to be either cooperating with, or sympathetic to, the Transitional Federal Government and AMISOM remain a concern. Based on experience gained in Mogadishu, the use by Al-Shabaab of civilians as human shields and the shelling of Transitional Federal Government and AMISOM forces from civilian-populated areas are strategies that Al-Shabaab may continue to use. AMISOM will continue to exercise the utmost care in such instances and will take all necessary precautionary measures to minimize any potential harm that could be caused to the civilian population.

28. In an effort to strengthen AMISOM's ability to protect civilian populations in its area of operations, consideration is being given to the establishment of a Civilian Casualty Tracking, Analysis and Response Cell, as outlined in Security Council resolution 2036 (2012). To this end, discussions have been initiated with all key stakeholders. It should be noted that while the establishment of the Cell can contribute to the monitoring and reduction of civilian casualties during AMISOM operations, such a mechanism is likely to be best suited to the kind of urban warfare witnessed in Mogadishu prior to 2012. Accordingly, further consideration is being given to other complementary mechanisms.

29. Coordination with the Transitional Federal Government, partners and other actors that have roles and responsibilities in terms of the protection of the civilian population will be important in this regard. In this context, the Commission will

host a workshop on mainstreaming the protection of civilians in AMISOM operations at the end of June, with a view to assessing the progress made to date based on current and new protection risks and outlining the best ways and means for the Mission to coordinate with other actors as it expands into and secures new areas. In the same vein, the AMISOM rules of engagement will also be reviewed.

VII. Outreach and stabilization in liberated areas

30. My Special Representative for Somalia continues to work with the Special Representative of the Secretary-General for Somalia and the Intergovernmental Authority on Development (IGAD) Facilitator for Somalia Peace and National Reconciliation to facilitate support for the delivery of both the IGAD grand stabilization strategy and the plan of the Transitional Federal Government for newly liberated areas. In this respect, I am pleased to report that an agreement has been reached with the Steering Committee on Stabilization of the Transitional Federal Government regarding the establishment of an AMISOM/Transitional Federal Government policy working group in order to enhance coordination and the provision of support to the Transitional Federal Government stabilization plan.

31. The Transitional Federal Government has appointed Governors in the newly liberated areas, namely Middle and Lower Shabelle, Hiraan, Gedo, Bay and Bakool. These are interim arrangements for a period of three months, after which consultative forums on the sharing of power and resources will be organized followed by elections at the local level. These Governors will be responsible for ensuring security arrangements, disarmament and the delivery of basic services to the population. The military operations of AMISOM, as outlined in the Strategic Concept and the AMISOM concept of operations, will therefore also take due cognizance of local reconciliation and stabilization efforts.

VIII. Support to Transitional Federal Government security sector and justice institutions

32. On 30 March, the Commission convened, in Addis Ababa, a conference on the empowerment of Somalia's security sector. The conference was attended by the United Nations and other partners and sought to galvanize greater international community attention in support of the enhancement of the strategic and operational effectiveness of the National Security Forces and other related sectors. The conference was followed, on 11 April, by a working group meeting in Nairobi, which discussed the immediate operational needs for all sectors; prioritization in line with a strategic view of where support is most needed; criteria for effective support to the Somali security sector and justice institutions and delivery mechanisms. On 25 April, the technical working group further discussed the draft concept of operations for the integration of allied forces and a detailed draft document on the immediate and long-term needs of the Somali National Security Forces and Justice and Custodial Corps. The final document with the immediate and long-term funding needs was completed on 30 May and will be submitted to the African Union Peace and Security Council for consideration.

33. In the spirit of close cooperation, the Somalia National Security Agency and AMISOM convened the third information-sharing meeting in Mogadishu, from 2 to

4 April 2012. The objective of the meeting was to exchange information on the current state of Al-Shabaab following the loss of major cities and the significantly improved political and security situation in the newly liberated areas. The meeting was also attended by representatives from Burundi, Djibouti, Ethiopia, Kenya, Somalia and Uganda and the African Centre for the Study and Research on Terrorism. The meeting made a number of recommendations on developing the capacity of the Somalia National Security Agency and Transitional Federal Government forces in the priority areas of communication, through the provision of secure means of communication, counter-insurgency, counter-terrorism and counter-improvised explosive device training.

34. In a related development, on 2 April, AMISOM and the Somalia National Security Agency inaugurated the Joint Unit of Fusion and Liaison to provide timely and accurate information to Transitional Federal Government and AMISOM forces fighting Al-Shabaab. The AMISOM/Transitional Federal Government Joint Unit of Fusion and Liaison was established in line with the recommendation made at the information-sharing meeting held in Kampala in November 2010.

IX. Observations

35. The reporting period witnessed significant progress on all tracks. The finalization of the drafting of the Constitution and the convening of the elders' meeting are important steps towards the achievement of the road map goals. However, a number of challenges remain, especially with regard to the inclusivity of the processes under way and the tight timeline for the establishment of the National Constituent Assembly.

36. The overall security situation in Mogadishu has improved significantly. AMISOM recently expanded its area of control into the Daynille district, which has also contributed to the improved security situation in Mogadishu. At the same time, the threat of improvised explosive devices, suicide attacks and assassinations persists. The security situation in other sectors has also been consolidated. Notwithstanding the aforesaid, new challenges mostly linked to property disputes and law and order incidents, owing to the large influx of internally displaced persons, are emerging. The deployment of the formed police units will help the Somali Police Force in mitigating these challenges.

37. The expansion of the military component of AMISOM is being achieved, although with certain delays. The deployment, as advance elements, of 100 military personnel from Burundi and Uganda in sector 3, and of 36 Djibouti military personnel in sector 4, the movement of equipment to sector 3, the insertion of additional Ugandan troops into Mogadishu for onward deployment to Baidoa and the movement of equipment of the Djiboutian contingent are all significant steps in the completion of the operational benchmarks. In addition, the memorandum of understanding with Kenya has been finalized.

38. The key benchmark of establishing the new command and control architecture has been achieved. The Military Operations Coordination Committee and the Joint Coordination Mechanism are now operational. The allocation of staff officer posts for the expanded force headquarters has been finalized. The new Force Commander has already assumed duty and the recruitment process for finalization of the remaining candidates is under way and will be fast tracked to ensure full staffing of

the force headquarters by July. Other outstanding issues, including the deployment of the Guard Force, will be addressed as a priority in the coming days.

39. There is also better clarity regarding support to the Transitional Federal Government. The development of the concept of operations for the National Security Forces is a step in the right direction. However, much remains to be done to bring the capabilities of the Somali Security Forces to the desired level, to ensure that they are capable of providing lasting peace and security in Somalia.

40. Overall, I am satisfied with the Mission's progress during the reporting period, despite delays in the achievement of certain operational benchmarks. Once again, I would like to reiterate the African Union's gratitude to the United Nations and other bilateral and multilateral partners for their continued support. As AMISOM intensifies its operations, this support will remain critical. In this respect, the reconfiguration of the number of authorized attack and utility helicopters should be considered as a matter of urgency.

United Nations S/2012/469

Security Council

Distr.: General
21 June 2012

Original: English

Letter dated 18 June 2012 from the Secretary-General addressed to the President of the Security Council

I welcome the unanimous adoption of resolution 2051 by the Security Council on 12 June 2012, in which the Council reaffirmed the need for the full and timely implementation of the Transition Agreement for a Yemeni-led political transition. Resolution 2051 (2012) sends an important signal to all Yemeni sides to step up efforts to move the transition process forward and demonstrates the strong commitment of the Security Council to continue its support for a peaceful transition.

I take note that in its resolution 2051 (2012), the Security Council "requests the Secretary-General to continue his good offices role, including through the efforts of his Special Adviser, Jamal Benomar", and in this regard "welcomes the political engagement of the United Nations through a small presence in Yemen consisting of a team of experts to support the implementation of the transition process". In the resolution the Council also "requests the Secretary-General to continue to coordinate assistance from the international community in support of the National Dialogue and transition".

Since the uprisings in Yemen broke out in early 2011, I have been actively engaged through my good offices in helping to find a peaceful solution. Within this framework, my Special Adviser, Jamal Benomar, has continuously engaged with all sides through 12 extensive missions thus far. In November, during his sixth mission, he facilitated face-to-face negotiations between the Government and opposition at their request. This mediation effort resulted in the Transition Agreement signed in Riyadh on 23 November 2011. The Special Adviser has since remained actively engaged with all Yemeni sides in facilitating and supporting its effective implementation.

Since November, there has been progress in the implementation of the Agreement. A Government of National Unity led by Prime Minister Mohamed Basendwa was formed in December 2011. The election of President Hadi on 21 February secured the peaceful transfer of power and marked the successful completion of the first phase of Yemen's transition. The start of security sector reform and the launch on 6 May of preparations for the National Dialogue Conference indicate that the Yemeni sides are staying on course in implementing the Agreement. However, the country's peace remains fragile and the transition faces formidable challenges.

The Security Council recognized these challenges in resolution 2051 (2012). The convening of an all-inclusive National Dialogue in particular will be a crucial

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forum for shaping Yemen's future and for creating a positive political dynamic towards greater stability and security. Helping to ensure the success of this process therefore is one of my top priorities. This will require stepped-up political facilitation efforts to help support the next steps in transition, including the National Dialogue, the constitutional review and new elections in early 2014.

To fully meet the expectations of resolutions 2014 (2011), 2051 (2012) and the Transition Agreement, in which the Yemeni sides requested . to, inter alia, "provide continuous assistance, in cooperation with other agencies, for the implementation of this Agreement", I intend to establish a small Office of the Special Adviser to the Secretary-General on Yemen for an initial period of 12 months to fulfil the following main functions:

(a) Exercise my good offices with a view to facilitating Yemen's transition and assisting in the implementation of the Agreement;

(b) Lead United Nations support to the National Dialogue Conference and coordinate international assistance to the Conference;

(c) Provide support to other transition steps, including the constitutional review, and new general elections in early 2014;

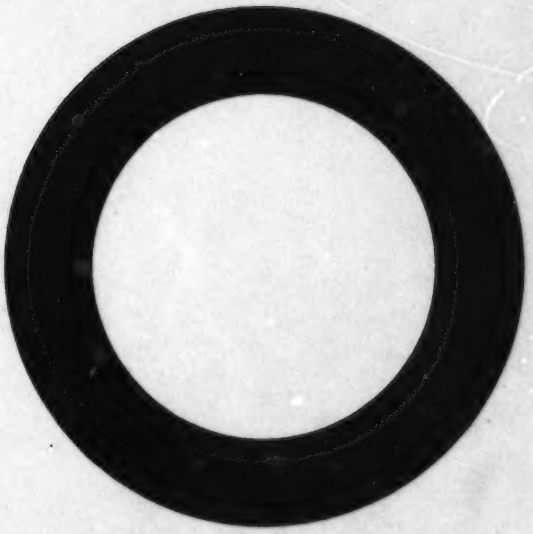
(d) Work closely with the members of the Security Council, the Gulf Cooperation Council and other international partners;

(e) Support the Secretary-General's ongoing reporting obligations to the Security Council in the context of resolutions 2014 (2011) and 2051 (2012).

The Office will be headed by my Special Adviser on Yemen at the level of Assistant Secretary-General to exercise my good offices role, including through regular and frequent visits to Yemen, and engage closely with all Yemeni sides. The Special Adviser will be supported both at Headquarters and on the ground in Yemen by a small team of five Professional staff. An advance team of two Professional staff that was deployed to Sana'a in May will be incorporated into this Office. In fulfilling its tasks, the Office will work closely with United Nations agencies, funds and programmes and the United Nations country team in Yemen.

I should be grateful if you could bring the present letter to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon



United Nations S/2012/470

Security Council

Distr.: General
21 June 2012

Original: English

Letter dated 21 June 2012 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that your letter dated 18 June 2012 (S/2012/469) concerning your intention to establish a small Office of the Special Adviser to the Secretary-General on Yemen for an initial period of 12 months has been brought to the attention of the members of the Security Council. They take note of the intention expressed in your letter.

(*Signed*) Li Baodong
President of the Security Council

12-38445 (E) 220612

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United Nations S/2012/471

Security Council

Distr.: General
21 June 2012
English
Original: Arabic and English

Identical letters dated 20 June 2012 from the Permanent Representative of Libya to the United Nations addressed to the Secretary-General and the President of the Security Council

Upon instructions from my Government, I have the honour to attach herewith the Memorandum on the Arrest of the International Criminal Court Delegation from the Ministry of Foreign Affairs and International Cooperation (see annex).

It would be highly appreciated if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Abdurrahman M. **Shalgham**
Ambassador
Permanent Representative

12-38508 (E) 250612 260612

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Annex to identical letters dated 20 June 2012 from the Permanent Representative of Libya to the United Nations addressed to the Secretary-General and the President of the Security Council

[Original: Arabic]

Memorandum on the arrest of the delegation of the International Criminal Court

- In response to Security Council resolution 1970 (2011) of 26 February 2011, which decided that the Libyan authorities should cooperate fully with the International Criminal Court (ICC) and with the Prosecutor of the Court, and pursuant to its commitments in respect of the Court, the Government of Libya, having secured the approval of the Public Prosecutor, received a delegation from the Court on 6 June 2012.

- The basic purpose of the visit was to provide the ICC-appointed counsel for the defence with an opportunity of meeting with the accused, Saif al-Islam Gaddafi, at his place of detention in the city of Zintan and to discuss the possibility of designating another counsel for the defence, one of his own choosing.

- The delegation consisted of the following persons:
  - Ms. Melinda Taylor, defence counsel (of Australian nationality)
  - Ms. Hélène Assaf, interpreter (of Lebanese nationality)
  - Mr. Alexander Khodakov, ICC expert (of Russian nationality)
  - Mr. Esteban Peralta Losilla, Chief, Counsel Support Section (of Spanish nationality)

- During the meeting with the accused, Ms. Taylor handed him, in the presence of the interpreter, a number of documents the contents of which represented a threat to the national security of Libya. One of them was a coded letter from Mohammed Ismail, who had previously been the main aide of the accused while at the same time working as a leading figure in the security and intelligence service with close ties to its former Director, Abdullah al-Senussi. It is noteworthy that those documents were irrelevant for the proceedings of the ICC, and had no connection of any kind with the provision of appropriate legal advice in the case of the accused. Furthermore, spying and recording devices, including a video camera pen and watch, were found in the possession of Ms. Taylor and the other members of the delegation. This was inconsistent with the mandate of the ICC delegation and incompatible with the tasks assigned to the court-appointed counsel for the defence; it was also a flagrant breach of Libyan law and an offence punishable under the criminal legislation in force. Moreover, it was also at variance with the ethical and professional obligations incumbent upon the members of the ICC delegation, and contrary to the provisions of the Code of Professional Conduct for Counsel which was adopted by the Court on 2 December 2005.

- In view of the circumstances and the fact that the offenders had been caught in the act, the Office of the Public Prosecutor decided that an immediate

investigation was necessary. Only two members of the delegation, Ms. Melinda Taylor and Ms. Hélène Assaf, were initially viewed as suspects for interrogation; the Office of the Public Prosecutor ordered the release of the other two members. However, they decided voluntarily to remain out of solidarity with their colleagues.

– Owing to Ms. Taylor's refusal to cooperate with the examining magistrate from the Office of the Public Prosecutor or make any statement, she and her colleague, Hélène Assaf, were placed under house arrest. Ms. Taylor insisted that she would say nothing unless an international defence counsel was present, although the Office of the Public Prosecutor had provided a Libyan lawyer.

– The Ministry of Foreign Affairs and International Cooperation quickly conveyed Ms. Taylor's request for an international counsel to the appropriate officials at the ICC. It is noteworthy that the prolongation of her house arrest has been entirely due to her refusal to cooperate with the Office of the Public Prosecutor.

– On 7 June 2012, the Ministry of Foreign Affairs and International Cooperation informed the ICC what had happened. The ICC, instead of consulting with the Libyan authorities on how to deal with this problem, hastily issued a press release on 15 June 2012 in which it called upon Libya to release the members of the ICC team immediately, to ensure their safety, and to see to it that they were well treated; it said nothing about the offences they had committed or their disregard of professional ethics.

– A meeting between the ICC delegation and the Office of the Public Prosecutor was held on 11 June 2012, and later that day the delegation met with the Public Prosecutor and the team from the Ministry of Foreign Affairs and International Cooperation in charge of cooperation with the ICC. The outcome of these two meetings was an agreement to the effect that arrangements would be made for a team from the ICC to visit the city of Zintan, accompanied by the ambassadors of Australia, Russia, Spain and Lebanon. The visit duly took place on 12 June 2012. In the course of it, the new delegation and the accompanying ambassadors met with the detained ICC members and engaged in direct conversation with them. The visitors also inspected the services and facilities provided by the Libyan authorities in the residence where the detained persons were living, and it is noteworthy that during the meeting the detained persons expressed satisfaction at the good treatment they were receiving and the facilities available to them. At the conclusion of the visit, the ambassadors asked the Libyan authorities to authorize individual visits to the detained persons and to allow them to telephone their families, and the Libyan authorities have promised to respond favourably to that request as soon as the investigation has been completed.

– Pursuant to its commitments under Security Council resolution 1970 (2011), and in a spirit of cooperation to find a solution to this problem, the Libyan authorities acceded to the request of the Court to allow Mr. Andrea O'Shea, a defence counsel, to attend the investigation sessions, which began on 16 June and continued until the evening of 17 June 2012.

– The Prime Minister, Dr. Abdurrahim El-Keib, attaches particular importance to Libya's relations with the ICC, as appears from the fact that he convened three meetings with the Deputy Prime Ministers, the Minister of Justice, the Public Prosecutor and the Deputy Minister for Foreign Affairs and International Cooperation, for the purpose of exchanging views on the most useful means of solving this problem in accordance with the requirements of domestic and international law. The meeting held on Sunday, 17 June 2012, produced a discussion on a road map for expediting negotiations with the ICC within a specified time frame, and for reaching agreement on an effective action and consultation mechanism with a view to ensuring a just outcome for all the parties concerned.

– Further to the investigation, on 18 June 2012 the Ministry of Foreign Affairs and International Cooperation met with the ICC team. A representative of the Office of the Public Prosecutor was also present, as was the legal adviser from the Office of the Prime Minister. The purpose of the meeting was to consider the steps that should be taken by both parties, Libya and the ICC, to reach agreement on a road map leading to a solution to this issue.

– The Government of Libya continues to be committed to its cooperation with the International Criminal Court in order to find a solution that is satisfactory to all parties in a framework of respect for domestic and international law. It also remains committed to cooperation with the Court in respect of procedures concerning the accused Saif al-Islam Gaddafi and his full right to a defence. In return, the Government of Libya expects the ICC to ensure that members of delegations sent to Libya observe professional ethics, respect Libyan law and the sovereignty of the State, and refrain from committing any offences that may constitute obstacles to the establishment of an effective, positive partnership between it and the Court.

Ministry of Foreign Affairs and International Cooperation

19 June 2012

United Nations S/2012/472

Security Council

Distr.: General
21 June 2012

Original: English

Identical letters dated 21 June 2012 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council

As I write this letter, rockets continue to rain down on the people of southern Israel. In the past three days, Hamas and other terrorists in Gaza have fired more than 120 rockets into the heart of Israeli homes, cities and communities. On the night of 19 June 2012, four Israeli soldiers were injured in a rocket attack, one seriously. The lives of 1 million Israeli civilians remain paralysed.

The glare of each exploding rocket lights up the truth about the situation in Gaza. The only things that Hamas is "reforming" in the area are the capabilities of its rockets to reach further and further into Israel. Today there is not a single civilian good that cannot enter Gaza. Yet, as Israel cooperates with the United Nations to implement a large number of humanitarian projects in Gaza and aid flows into the area, missiles continue to fly out.

The Security Council — which often speaks at great length about the welfare of the people of Gaza — should finally acknowledge a simple truth: the people of Gaza will face hardship as long as Hamas uses them as human shields to fire rockets into Israeli cities. When it is quiet in Sderot and Be'er-Sheva, it will be quiet in Gaza.

The Security Council has a duty to raise its voice about the roar of rockets that continues to come out of the Gaza Strip. Israel expects the Council and all responsible members of the international community to condemn these attacks, immediately and unequivocally. The international community also has a clear responsibility to prevent the illicit flow of arms into Gaza — a key aspect of resolution 1860 (2009) that receives hardly any attention.

Israel holds the Hamas terrorist organization fully responsible for all attacks emanating from Gaza. Israel has exercised and will continue to exercise its right to self-defence, as appropriate, and will take all necessary measures to protect its citizens.

I should be grateful if you would have the present letter distributed as a document of the Security Council.

(*Signed*) Ron **Prosor**
Ambassador
Permanent Representative

12-38517 (E) 220612

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